IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 545 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE DN PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PRATAPBHAI ISHWARBHAI VAGHRI & 2 - Applicant(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
HL PATEL ADVOCATES for Applicant(s) : 1 - 3.
MS NANDINI JOSHI APP for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE DN PATEL

Date : 14/07/2006

ORAL JUDGMENT

1. Rule. Ms. Nandini Joshi, learned APP, waives service of rule on behalf of the respondent No.1-State.

2. The present Revision Application has been preferred against the order passed by the learned Sessions Judge and Presiding Officer, 7th Fast Track Court, Nadiad, in Criminal Appeal No.90 of 2003, dated 20th July, 2004, whereby the order passed by the learned Judicial Magistrate, First Class, Nadiad, in Criminal Case No.4761 of 1995, dated 2nd December, 2003, was confirmed and the present petitioners were ordered to undergo simple imprisonment of 3 years and fine of Rs.2,000/-, in default, further sentence of one month for the offence under Section 325 of the Indian Penal Code, and also to undergo simple imprisonment of one month and fine of Rs.500/-, in default, further simple imprisonment of 5 days for the offence under Section 323 of IPC.

3. Learned counsel appearing for the petitioners submitted that there are lot of ommisions and contradictions in the deposition of prosecution witnesses. That the Courts below have not appreciated the fact that

prosecution has failed to prove the offence beyond reasonable doubt against the petitioners. Apart from this aspect of the matter, Rs.19,000/- which is the adequate amount has been paid to the injured eye witness namely Kokilaben Arjanbhai Vaghela on 9-7-2006. An affidavit of Kokilaben Arjanbhai Vaghela, dated 13-7-2006, has also been tendered before this Court, wherein she has stated that because of the invervention of caste Panch, she has received Rs.19,000/- on 9-7-2006 as a settlement between the petitioners and herself for Criminal Revision Application No.545 of 2004, and the said settlement has been arrived at without any force, influence or threat. This affidavit is taken on record. It is also submitted by the learned counsel for the petitioners that another affidavit of Arjunbhai Navghanbhai Vaghela, who is original complainant and husband of injured witness is also tendered before this Court. Both of them are saying in the same breath

that settlement has been arrived at and for compromise, an amount of Rs.19,000/- has been received, and therefore, it is submitted by the learned counsel for the petitioners that in view of Section 320 (2) of the Criminal Procedure Code, 1973, permission may be given for compounding the offence under Sections 325 and 323 of the IPC for which the petitioners have been punished by both the Courts below.

4. I have heard learned APP Ms. Nandini Joshi on behalf of the respondent No.1-State, who has submitted that in view of provisions of Section 320 (2) of the Code of Criminal Procedure, 1973, as the matter has been compromised and looking to the nature of offence, the compounding of the above offences may be permitted by this Court.

5. In view of the above submissions and affidavits filed by the inured witness Kokilaben Arjunbhai Vaghela and by the original complainant Ranchhodbhai Arjunbhai

Vaghela, to be read with Section 320 (2) of the Code of Criminal Procedure, 1873, and looking to the nature of injury and nature of offence, I hereby permit the compounding of the offences. Both, Kokilaben as well as Ranchhodbhai are present in the Court. Compromise/settlement has been arrived at without undue influence, corsion or threat. In view of compounding of offence, now petitioners will not have to undergo any sentence or will not have to pay any fine imposed by the Courts below.

6. This Criminal Revision Application is allowed to the aforesaid extent. Rule is made absolute to the aforesaid extent.

(D.N. PATEL, J.)

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